

ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE

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August 5, 2005

Section 5 Submission

Chief, Voting Section  
Civil Rights Division  
Room 7254 – NWB  
Department of Justice  
950 Pennsylvania Ave., NW  
Washington, DC 20006

Re: Submission Under Section 5 of the Voting Rights Act for:

New Hampshire Revised Statute Annotated ("RSA") 654:34, a STATUTE related to voter change of registration, most recently amended by Laws of 1993 Chapter 193 and previously amended by the chapters cited below.

Dear Voting Section Chief:

Pursuant to 42 U.S.C. § 1973 (c), the State of New Hampshire, through the Office of the New Hampshire Attorney General, hereby submits RSA 654:34, a STATUTE related to voter change of registration, most recently amended by Laws of 1993 Chapter 193 and previously amended by the chapters cited below.

SUBMISSION:

In accordance with 28 C.F.R. § 51.27, the submission is as follows:

- a) Chapter 193 (1993) amending RSA 654:34 is attached. (Exhibit 654:34 A)
  - 1. Chapter 129 (1987) amending RSA 654:34 is attached. (Exhibit 654:34 B)
  - 2. Chapter 308 (1981) amending RSA 654:34 is attached. (Exhibit 654:34 C)

3. Chapter 400 (1979) amending RSA 654:34 is attached.  
(Exhibit 654:34 D)
- b) Chapter 436 (1979) recodifying RSA 56:40 as RSA 654:34 is attached  
(Exhibit 654:34 E)
- c) The changes made by amendments to RSA 654:34 are as follows:
  1. Chapter 193 (1993) makes the following changes:
    - a. Amend the introductory paragraph by replacing the phrase “...whose party membership has not been previously...” with “...who has been...” and insert the phrase “...as an undeclared voter...”
    - b. Amend paragraph II (a) by replacing the phrase “...a member of any party...” with “...an undeclared voter...” and replacing the word “his” with the phrase “the voter(s)” throughout.
    - c. Amend paragraph II (b) by replacing the word “his” with the phrase “the voter(s)” throughout and inserting the phrase “A voter may also register once again as an undeclared voter after voting in the primary as a registered member of a party by returning the card provided for in paragraph V to the person at the polls designated by the town or city clerk to accept the card. All such cards shall be in the possession of the supervisors of the checklist at the close of the polls on election day” at the end of the section.
    - d. Amend paragraph III by replacing the word “his” with the phrase “the person’s” and by replacing the phrase “...or change his registration so that he is registered as a member of no party...” with the phrase “...unless, prior to voting in the primary, the person was registered as an undeclared voter, in which case the person may once again register as an undeclared voter, as provided in subparagraph II (b)” at the end of this section.
    - e. Inserting subparagraph V following subparagraph IV. Subparagraph V sets forth the language to be used on the change of party form.
  2. Chapter 129 (1987) amends paragraph II (b) of this statute by removing the phrase “...and if challenged, he shall take an

*oath or affirmation to the effect that he intends to affiliate with and generally supports the candidates of that party...*” from this section and making minor grammatical changes.

3. Chapter 308 (1981) inserts new paragraph IV in this statute.
  4. Chapter 400 (1979) replaces the phrase “...*at any session provided for in RSA 654:32...*” with “... *any time they meet, except as prohibited by RSA 654:15...*” in paragraph I (a) and in paragraph II (a).
  5. Chapter 436 (1979) recodifies RSA 56:40 as RSA 654:34.
- d) This submission is made by: Senior Assistant Attorney General Orville B. Fitch II, 33 Capitol Street, Concord, New Hampshire 03301, Phone: (603) 271-1238.
  - e) The submitting authority is New Hampshire Attorney General, Kelly A. Ayotte for the State of New Hampshire.
  - f) Not applicable.
  - g) The changes for which pre-clearance is sought were made by a decision of the New Hampshire General Court (Legislature).
  - h) In accordance with Amendment X of the U.S. Constitution, the New Hampshire General Court, the State’s legislature, acting pursuant to the New Hampshire Constitution Part Second, Article 2, granting supreme legislative power within the state to the House and Senate, who with right to negate each other are granted power to make law through Part Second, Article 5. Additional authority regarding election law is vested in Part First, Article 11.

The legislature through a bicameral process passed law to create Chapter 193 (Exhibit 654:34 A). The bill was signed into law (by the Governor) on June 9, 1993, pursuant to New Hampshire Constitution Part Second, Article 44.

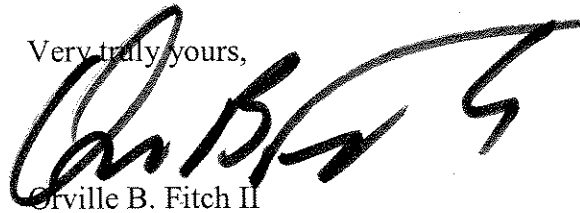
- i) Adoption dates:
  1. Chapter 193 (1993) adopted June 9, 1993
  2. Chapter 129 (1987) adopted May 7, 1987
  3. Chapter 308 (1981) adopted June 16, 1981

4. Chapter 400 (1979) adopted June 23, 1979
  5. Chapter 436 (1979) adopted June 25, 1979
- j) Effective dates:
1. Chapter 193 (1993) effective August 8, 1993
  2. Chapter 129 (1987) effective July 6, 1987
  3. Chapter 308 (1981) effective August 15, 1981
  4. Chapter 400 (1979) effective August 22, 1979
  5. Chapter 436 (1979) effective July 1, 1979
- k) The changes have been enforced.
- l) The changes affect the entire State of New Hampshire.
- m) The purpose for the changes are as follows:
1. The purpose of the Chapter 193 (1993) change is to permit voters who are registered as undeclared to vote in a primary election and then re-register as an undeclared on the same day as the vote.
  2. The purpose of the Chapter 129 (1987) change is to remove from this statute the requirement that an undeclared voter take an oath or affirmation if challenged when registering to vote as a member of a party during a primary election. RSA 659:29 provides a challenge of party affiliation procedure for all voters. A separate preclearance submission will address RSA 659:29.
  3. The purpose of the Chapter 308 (1981) change is to restrict the time a person may change party affiliation prior to a state primary election.
  4. The purpose of the Chapter 400 (1979) change is to allow a person to change party affiliations at both statutorily mandated and voluntary meetings of the Board of Supervisors.
  5. The purpose of the Chapter 436 (1979) change is to recodify RSA 56:40 as RSA 654:34.

- n) These changes do not negatively target any protected class under section 5 of the Voting Rights Act of 1965. 42 U.S.C. § 1973 (c). They are expected to have neutral impact and do not meet the test of retrogression defined in *Reno v. Bossier Parish Sch. Bd*, 520 U.S. 471, 478 (1997). “(T)he ability of minority groups ... to elect their choices to office” will not be diminished. *Beer v. U.S.*, 425 U.S. 130, 141 (1976).
- o) None known.
- p) RSA 654:34 was precleared through 1979 on June 22, 2004 by D.O.J. file numbers 2004-2563, 2004-2581 and 2004-2582. A copy of this preclearance is attached as Exhibit 654:34 F. This submission seeks preclearance of all subsequent changes.
- q) Not applicable as this is not a redistricting plan.
- r) Exhibit 654:34 G is a copy of a Press Release of this submission, its availability, and inviting comment to federal Department of Justice.

I expect the foregoing information is sufficient to enable the United States Attorney General to make the required determination pursuant to Section 5 of the Voting Rights Act. If further information is required or would be helpful, please contact me.

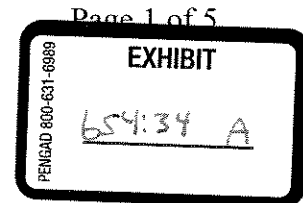
Very truly yours,



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HOUSE BILL - FINAL VERSION

**1993 SESSION** 0002B

93-0019

10

HOUSE BILL NO. 490

INTRODUCED BY: Rep. Whittemore of Merr 13; Rep. Holden of Hills 14;

Rep. Flanagan of Rock 14; Rep. Gilmore of Straf 11;

Rep. Lown of Hills 14

REFERRED TO: Constitutional and Statutory Revision

AN ACT permitting a registered voter who is registered as undeclared to vote in a primary election and on the day of the primary election register again as undeclared.

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ANALYSIS

This bill permits a voter who is registered as undeclared to vote in a primary election and then register once again as undeclared on the same day that the person votes.

The bill also adds a definition of "undeclared voter" to the general provisions of the election law statutes.

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EXPLANATION: Matter added appears in ***bold italics***.

Matter removed appears in [brackets].

Matter which is repealed and reenacted or all new appears in regular type.

0002B

93-0019

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## CHAPTER 193

HOUSE BILL - FINAL VERSION

HB 490

STATE OF NEW HAMPSHIRE

In the year of Our Lord one thousand

nine hundred and ninety-three

AN ACT

permitting a registered voter who is registered as undeclared to vote  
in

a primary election and on the day of the primary election

register again as undeclared.

Be it Enacted by the Senate and House of Represen-

tatives in General Court convened:

193:1 New Section; Undeclared Voter Defined. Amend RSA 652 by inserting after section 16 the following new section:

652:16-a The term "undeclared voter" shall mean a voter who is registered as a member of no political party.

193:2 Previously Unregistered Voters. Amend the introductory paragraph of RSA 654:34, II to read as follows:

II. Change of registration of a voter [whose party membership has not been previously] **who has been registered as an undeclared voter.**

193:3 Previously Unregistered Voters. Amend RSA 654:34, II(a) and (b) to read as follows:

(a) Any legal voter who has [not] been registered as [a member of any party] **an undeclared voter** may register as a member of the party of [his] **the voter's** choice by appearing before the supervisors of the checklist for [his] **the voter's** town or ward any time they meet, except as prohibited by paragraph IV, and stating to them, under oath or affirmation,

if required, that [he] **the voter** intends to affiliate with and generally supports the candidates of the party with which [he] **the voter** offers to register, in which case [he] **the voter** shall be registered as a member of such party.

(b) [He] **A voter** may also register as a member of a party at any primary by requesting [that he] **to** be registered as a member and voting the ballot of the party of [his] **the voter's** choice. **A voter may also register once again as an undeclared voter after voting in a primary as a registered member of a party by returning the card provided for in paragraph V to the person at the polls designated by the town or city clerk to accept the card. All such cards shall be in the possession of the supervisors of the checklist at the close of the polls on election day.**

193:4 Change in Party Registration. Amend RSA 654:34, III to read as follows:

III. Notwithstanding any provision of paragraphs I and II to the contrary, no person who has voted in a primary may thereafter on the day of said primary change [his] **the person's** party registration [or change his registration so that he is registered as a member of no party], **unless, prior to voting in the primary, the person was registered as an undeclared voter, in which case the person may once again register as an undeclared voter, as provided in subparagraph II(b).**

193:5 New Paragraph; Registration Card for Undeclared Voters. Amend RSA 654:34 by inserting after paragraph IV the following new paragraph:

V.(a) At any primary, the supervisors of the checklist shall make available within the polling place a card to enable a voter who was registered as an undeclared voter but who changed registration on the day of the primary in order to vote as a registered member of a party to change registration so that the voter is registered once again as an undeclared voter. The card shall be in substantially the following form:

Name \_\_\_\_\_

(Print)

Address \_\_\_\_\_

I hereby request that my political party registration be changed as follows:

From: Democrat / / or Republican / / or Libertarian

To: Undeclared / /

Signed under the pains and penalties of perjury.

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(b) The supervisors of the checklist, upon receipt of such a card, shall keep it until their next session of supervisors of the checklist for changing party registration at which time the sender's party registration shall be changed as indicated on the card.

193:6 Previously Unregistered Voters. Amend RSA 659:14 to read as follows:

659:14 Special Provisions for State and Presidential Primary Elections.

I. A person desiring to vote at a state or presidential primary election shall, at the time of announcing [his] **the person's** name, also announce the name of the party to which [he] **the person** belongs or whether [he] **the person** is [not] registered as [a member of any party] **an undeclared voter**. If [his] **the person's** party membership has been registered before, [he] **the person** shall be given only the ballot of the party with which [he] **the person** is registered, unless [he] **the person** desires to vote the ballot of a party not having official existence at the time [his] **the person's** party membership was previously registered. If the rules of a party permit a person who is [not] registered as [a member of any party] **an undeclared voter** to vote in the party's primary, any person desiring to vote in that party's primary shall also announce the name of that party at the time of announcing [his] **the person's** name. No person shall be permitted to vote in any more than one party primary during any primary election.

II. The secretary of state shall include on the voter instruction cards required by RSA 658:28 whether a party rule has been adopted which permits a person who is [not] registered as [a member of any party] **an undeclared voter** to vote in the party's primary. The party chairman shall notify the secretary of state in writing prior to the filing period for state offices whether the party has adopted such a rule. This rule shall not be changed or rescinded by a party until the results of the primary have been announced, and any change or rescission shall be mailed to the secretary of state by the party chairman.

193:7 Effective Date. This act shall take effect 60 days after its passage.

Approved: June 9, 1993

Effective: August 8, 1993

the chairman. The committee members shall serve without compensation, but the legislative members shall be entitled to legislative mileage when performing duties in connection with the committee. The committee shall make its findings and recommendations to the president of the senate, the speaker of the house of representatives, and the governor and council on or before December 1, 1987.

**128:2 Effective Date.** This act shall take effect 60 days after its passage.

[Approved May 7, 1987.]

[Effective Date July 6, 1987.]

## CHAPTER 129 (SB 137)

### AN ACT RELATIVE TO VOTING IN STATE AND PRESIDENTIAL PRIMARY ELECTIONS.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

**129:1 State and Presidential Primary Elections.** RSA 659:14 is repealed and reenacted to read as follows:

#### **659:14 Special Provisions for State and Presidential Primary Elections.**

I. A person desiring to vote at a state or presidential primary election shall, at the time of announcing his name, also announce the name of the party to which he belongs or whether he is not registered as a member of any party. If his party membership has been registered before, he shall be given only the ballot of the party with which he is registered, unless he desires to vote the ballot of a party not having official existence at the time his party membership was previously registered. If the rules of a party permit a person who is not registered as a member of any party to vote in the party's primary, any person desiring to vote in that party's primary shall also announce the name of that party at the time of announcing his name. No person shall be permitted to vote in any more than one party primary during any primary election.

II. The secretary of state shall include on the voter instruction cards required by RSA 658:28 whether a party rule has been adopted which permits a person who is not registered as a member of any party to vote in the party's primary. The party chairman shall notify the secretary of state in writing prior to the filing period for state offices whether the party has adopted such a rule. This rule shall not be changed or rescinded by a party until the results of the primary have been announced, and any change or rescission shall be mailed to the secretary of state by the party chairman.

**129:2 Changing Registration at Primary.** Amend RSA 654:34, II(b) to read as follows:

(b) He may also register as a member of a party at any primary by requesting that he be registered as a member and voting the ballot of the party of his choice.

**129:3 Effective Date.** This act shall take effect 60 days after its passage.

[Approved May 7, 1987.]

[Effective Date July 6, 1987.]

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## CHAPTER 308

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**132:12-d Recovery by the State.** Upon a determination that a person has fraudulently obtained funds under this program, the state may bring an action to recover the funds. Any funds so recovered shall be remitted to the proper federal officials as required under federal law or regulation. Demand and payment of these funds shall not relieve or discharge any person of liability, either civil or criminal, for additional amounts or penalties as may be prescribed under any other applicable law.

**307:3 Penalties Expanded.** Amend RSA 132:15 as amended by striking out said section and inserting in place thereof the following:

**132:15 Penalties.** Any person committing a fraud on the women, infants, and children program under RSA 132:12-a shall be charged under RSA 638:15. Any person violating any other provision of this subdivision or any rule adopted under this subdivision shall be guilty of a misdemeanor.

**307:4 Criminal Penalties for Fraud.** Amend RSA 638 by inserting after section 14 the following new section:

**638:15 Fraud on the Women, Infants, and Children (WIC) Program.**

I. A person is guilty of fraud on the women, infants, and children program if he is a vendor who embezzles, purposely misapplies, steals, or obtains by fraud or theft any funds, assets, or property provided under RSA 132:12-a or if he receives, conceals, or retains such funds, assets, or property for his own use, knowing them to have been embezzled, purposely misapplied, stolen, or obtained by fraud or theft.

II. Fraud on the women, infants, and children program is:

(a) A class A felony where the value of the funds, assets, or property exceeds \$1,000;

(b) A class B felony where the value of the funds, assets, or property exceeds \$100, but is not more than \$1,000;

(c) A misdemeanor in all other cases.

III. A person is guilty of a misdemeanor if he is a participant who:

(a) By a purposely false statement or misrepresentation or by impersonation or other purposely fraudulent act or device attempts to obtain or obtains funds under RSA 132:12-a to which he is not entitled;

(b) Purposely and knowingly aids or abets any person, by a purposely false statement or misrepresentation or by impersonation or other purposely fraudulent act or device, to attempt to obtain or obtain funds under RSA 132:12-a to which the person is not entitled;

(c) Purposely fails to disclose the receipt of property, wages, income, or resources or any change in circumstances that would affect his eligibility for assistance under RSA 132:12-a, to obtain funds or assistance to which he is not entitled.

**307:5 Effective Date.** This act shall take effect 60 days after its passage.

[Approved June 16, 1981.]

[Effective Date August 15, 1981.]

**CHAPTER 308 (HB 879)**

AN ACT RELATIVE TO THE TIME FOR CHANGING PARTY  
AFFILIATION AND FILING CANDIDACIES  
FOR THE STATE PRIMARY ELECTION.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

**308:1 Party Registration.** Amend RSA 654:15 (supp) as inserted by 1979, 436:1 by striking out said section and inserting in place thereof the following:

**654:15 Party Registration.** Whenever names are added to the checklist the supervisors shall register the party membership of the voter if he desires such membership registered. The party membership of each voter may be registered by writing in ink, printing, or rubber stamping after the name of such voter the first 3 letters of the name of the party with which he registers.

**308:2 Checklist Session.** Amend RSA 654:32 (supp) as inserted by 1979, 436:1 as amended by striking out said section and inserting in place thereof the following:

**654:32 Hearings on Alterations to Party Registration.** Before each state or presidential primary election, the supervisors of the checklist shall be in session before each primary for the change of registration of legal voters as provided in RSA 654:34 or 654:34-a or both. Before the presidential primary, the sessions shall be on 2 days, at least, and at such other times as they deem necessary, and shall not be closer in time to such primary than the day immediately prior to the first day for the filing of nomination petitions. Before the state primary election, the sessions shall be on 2 days, at least, and at such other times as they deem necessary, and the last one shall be on the Tuesday before the first Wednesday in June for at least 2 hours between 6 p.m. and 9 p.m.

**308:3 Reference Changed.** Amend the introductory paragraph of RSA 654:34, I(a) (supp) as inserted by 1979, 436:1 as amended by striking out in line 4 the reference "RSA 654:15" and inserting in place thereof the following (paragraph IV) so that said paragraph as amended shall read as follows:

(a) Any legal voter whose party membership has been registered may change such registration by appearing in person before the supervisors of the checklist for his town or ward any time they meet, except as prohibited by paragraph IV, and stating to them under oath or affirmation, if required, that:

**308:4 Another Reference Changed.** Amend RSA 654:34, II(a) (supp) as inserted by 1979, 436:1 as amended by striking out in line 4 the reference "RSA 654:15" and inserting in place thereof the following (paragraph IV) so that said paragraph as amended shall read as follows:

(a) Any legal voter who has not been registered as a member of any party may register as a member of the party of his choice by appearing before the supervisors of the checklist for his town or ward any time they meet, except as prohibited by paragraph IV, and stating to them, under oath or affirmation, if required, that he intends to affiliate with and generally supports the candidates of the party with which he offers to register, in which case he shall be registered as a member of such party.

**308:5 New Paragraph.** Amend RSA 654:34 by inserting after paragraph III the following new paragraph:

IV. No person, who is already registered to vote, whether his party membership has been previously registered or not, shall affiliate with a party or disaffiliate from a party between the first Wednesday in June and the day before the state primary election.

**308:6 Further Reference Changed.** Amend RSA 654:34-a, VII (supp) as inserted by 1979, 400:1 by striking out in line 8 the number "654:15" and

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VII. The sors of the by RSA 65 change of p be affiliate the checkli the checkli RSA 654:3 made as sc

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inserting in place thereof the following (654:34, IV,) so that said paragraph as amended shall read as follows:

VII. The town or city clerk shall present to the next meeting of the supervisors of the checklist, in accordance with the checklist guidelines as provided by RSA 654:25, the name of any person who made application to him for a change of party affiliation and the name of the party with which he desires to be affiliated or that he desires to be affiliated with no party. The supervisors of the checklist shall cause the party affiliation of the applicant to be changed on the checklist. Any change submitted which is prohibited by the provisions of RSA 654:34, IV, shall be retained by the supervisors; and the change shall be made as soon as permitted by law.

**308:7 Filing Period Altered.** Amend the introductory paragraph of RSA 655:14 (supp) as inserted by 1979, 436:1 by striking out said paragraph and inserting in place thereof the following:

The name of any person shall not be printed upon the ballot of any party for a primary unless he is a registered member of that party, he shall have met the age and domicile qualifications for the office he seeks at the time of the general election, he meets all the other qualifications at the time of filing, and he shall file with the appropriate official between the first Wednesday in June and the third Wednesday in June a declaration of candidacy as provided in RSA 655:17, and

**308:8 Supplementary Petitions.** Amend RSA 655:26 (supp) as inserted by 1979, 436:1 by striking out in line 8 the words "less than 75 days before the primary" and inserting in place thereof the following (later than the third Wednesday in June) so that said section as amended shall read as follows:

**655:26 Examination and Rejection.** The officer with whom primary petitions are filed shall immediately upon receipt thereof examine the same and ascertain whether they conform to the law. If found not to conform thereto or to be conflicting as provided in RSA 655:23, he shall then endorse thereon the reason why such petition cannot be accepted and shall, within 24 hours, return the same to the candidate in whose behalf it was filed. In such case, the candidate may file supplementary petitions with the official but not later than the third Wednesday in June.

**308:9 Effective Date.** This act shall take effect 60 days after its passage.

[Approved June 16, 1981.]

[Effective Date August 15, 1981.]

## CHAPTER 309 (HB 883)

### AN ACT CREATING AN AIRPORT DISTRICT BETWEEN THE CITY OF MANCHESTER AND THE TOWN OF LONDONDERRY.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

#### **309:1 Manchester-Londonderry Airport District.**

I. The city of Manchester and the town of Londonderry are hereby authorized to establish an airport district in accordance with the intermunicipal agreement made on March 3, 1981, between Manchester and Londonderry.

II. The district shall consist of all lands approved by the voters of the town of Londonderry at the town meeting held in March, 1981, Article 24 as amended.

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CHAPTER 400

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a certain county, establish, conduct, manage, or operate a facility without having a license to do so, without averring any further or more particular facts concerning the same.

**399:11 Effective Date.** This act shall take effect 60 days after its passage.

[Approved June 23, 1979.]

[Effective Date August 22, 1979.]

CHAPTER 400 (HB 244)

AN ACT PERMITTING CHANGES IN PARTY AFFILIATION TO BE REGISTERED WITH A TOWN OR CITY CLERK IF SO VOTED BY REFERENDUM.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

**400:1 New Sections.** Amend RSA 654 by inserting after section 34 the following new sections:

**654:34-a Application to Town or City Clerk; Changes to Be Forwarded.**

I. A town or city may permit changes in party affiliation to be registered with a town or city clerk.

II. In addition to the methods of changing party affiliation provided in RSA 654:34, any person whose name appears on the checklist of a town or ward may apply to the town or city clerk for the purpose of having his party affiliation changed. A person desiring to change his party affiliation shall state to the town or city clerk under oath or affirmation that:

(a) He intends to affiliate with and generally supports the party with which he offers to register; or

(b) He does not wish to be registered as a member of any party.

III. No application for a change of party affiliation shall be accepted on the day of a primary election.

IV. Any application made under the provisions of this section shall be made during the regular office hours of the town or city clerk.

V. Town and city clerks shall have the power to administer oaths to the applicants that appear before them for the purposes of this section.

VI. Any application made under the provisions of this section shall be signed and dated by the applicant.

VII. The town or city clerk shall present to the next meeting of the supervisors of the checklist, in accordance with the checklist guidelines as provided by RSA 654:25, the name of any person who made application to him for a change of party affiliation and the name of the party with which he desires to be affiliated or that he desires to be affiliated with no party. The supervisors of the checklist shall cause the party affiliation of the applicant to be changed on the checklist. Any change submitted which is prohibited by the provisions of RSA 654:15 shall be retained by the supervisors; and the change shall be made as soon as permitted by law.

**654:34-b Procedure for Adoption.**

I. A town desiring to adopt the provisions of RSA 654:34-a may have the question placed on the warrant for a town meeting at which town officers are elected in the manner provided in RSA 39:3. Such question shall be presented for voter approval in the following manner:

(a) For a town officer who has been elected to the ballot as it appears on the town officers' list.

(b) For a town officer, as provided in subparagraph (a).

(c) The word "city" shall be substituted for "town" in RSA 654:34-a shall be permitted applying for town clerk?"

(d) Upon the question, "Yes" with a square below the word "city" shall be the right hand side of the ballot shall make a change beside the question.

II. A city desiring to place a question on the ballot for the election of city clerk shall petition signed by a majority of the council. The question shall be worded as follows: "The word 'city' shall be substituted for 'town' in RSA 654:34-a shall be permitted applying for town clerk?"

III. Upon the question, the pro and con shall be taken.

IV. If after a town meeting desires to rescind the adoption of the provisions of paragraphs I or II, the town shall be required to become effective.

**400:2 Hearing.** Any person striking out said

**654:32 Hearing.** Any person or presidential session for the clerk of RSA 654:34 or 654:34 other times as the primary than the declaration of ca

**400:3 Change.** 436:1 by striking in place there

(a) Any legal change such registration checklist for his RSA 654:15, and

**400:4 Time for.** 1979, 436:1 thereof the following

(a) Any legal may register as

(a) For a town which has an official ballot for the election of town officers, the officer who prepares the ballot shall place the question on such official ballot as it appears in subparagraph (c).

(b) For a town which does not have an official ballot for the election of town officers, the clerk shall prepare a ballot in the form as provided in subparagraph (c).

(c) The wording on the ballot of any referendum for the adoption of RSA 654:34-a shall be as follows: "Shall we adopt the provisions of RSA 654:34-a permitting applications for changes in party affiliation to be made with the town clerk?"

(d) Upon the ballot containing the question shall be printed the word "Yes" with a square near it at the right hand of the question; and immediately below the word "Yes" shall be printed the word "No" with a square near it at the right hand of the question. The voter desiring to vote upon the question shall make a cross in the square of his choice. If no cross is made in a square beside the question, the ballot shall not be counted on the question.

II. A city desiring to adopt the provisions of RSA 654:34-a may have the question placed on the official ballot for any regular municipal election for the election of city officers upon a vote of the city council or upon submission of a petition signed by 5 percent of the registered voters of the city to the city council. The question shall be placed on the official ballot by the city clerk with the wording and in the form provided for in paragraph I (c) except that the word "city" shall be substituted for the word "town".

III. Upon approval of the question by a majority of those voting on the question, the provisions of RSA 654:34-a shall be deemed to have been adopted and shall take effect on January 1 next following the referendum.

IV. If after adoption of the provisions of RSA 654:34-a, any town or city desires to rescind its adoption, it may do so by referendum pursuant to paragraphs I or II, by changing in paragraph I (c) the word "adopt" to read "rescind" in the question on the referendum; and provided, further, that after the adoption of the provisions of RSA 654:34-a, any action to rescind shall not become effective until January 1 next following the action taken to rescind.

**400:2 Hearings.** Amend RSA 654:32 (supp) as inserted by 1979, 436:1 by striking out said section and inserting in place thereof the following:

**654:32 Hearings on Alterations to Party Registration.** Before each state or presidential primary election, the supervisors of the checklist shall be in session for the change of party registration of legal voters as provided in RSA 654:34 or 654:34-a or both. The sessions shall be on 2 days, at least, and at such other times as they deem necessary, and shall not be closer in time to the primary than the day immediately prior to the first day for the filing of a declaration of candidacy.

**400:3 Change Time.** Amend RSA 654:34, I (a), (supp) as inserted by 1979, 436:1 by striking out the introductory part of said subparagraph and inserting in place thereof the following:

(a) Any legal voter whose party membership has been registered may change such registration by appearing in person before the supervisors of the checklist for his town or ward any time they meet, except as prohibited by RSA 654:15, and stating to them under oath or affirmation, if required, that:

**400:4 Time for Amending.** Amend RSA 654:34, II (a), (supp) as inserted by 1979, 436:1 by striking out said subparagraph and inserting in place thereof the following:

(a) Any legal voter who has not been registered as a member of any party may register as a member of the party of his choice by appearing before the

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**400:5 Effective Date.** This act shall take effect 60 days after its passage.

[Approved June 23, 1979.]

[Effective Date August 22, 1979.]

[Editor's Note. This chapter was edited in accordance with 1979, 436:9.]

### CHAPTER 401 (HB 289)

AN ACT RELATIVE TO CERTAIN CHANGES IN THE VETERINARY PRACTICES ACT.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

**401:1 New Section.** Amend RSA 332-B by inserting after section 3 the following new section:

**332-B:3-a Temporary Member.** The chairman or acting chairman of the board is authorized to appoint an additional person to sit on a temporary or emergency basis at any hearing at which one or more board members is absent, so long as the person so chosen has in the past served as a board member.

**401:2 Effective Date.** This act shall take effect 60 days after its passage.

[Approved June 23, 1979.]

[Effective Date August 22, 1979.]

### CHAPTER 402 (HB 362)

AN ACT RELATIVE TO CERTAIN LICENSING REQUIREMENTS  
CONCERNING REGISTERED AND PRACTICAL NURSES.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

**402:1 Powers of the Board.** Amend RSA 326-B:4, VIII (supp) as inserted by 1975, 281:1, by inserting in line 2 after the word "license" the following (or registration) so that said paragraph as amended shall read as follows:

VIII. Conduct hearings upon charges calling for the discipline of a licensee, or denial, suspension or revocation of a license or registration.

**402:2 Qualifications for Practical Nurses.** Amend RSA 326-B:7, I (c) (supp), as inserted by 1975, 281:1, by striking out said subparagraph and inserting in place thereof the following:

(c) Written evidence of graduation from an approved school of practical nursing, or graduation from an approved school of professional nursing and evidence of having exhausted all opportunities, as determined by the board, to take the examination for registered nurse licensure.

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**654:28 Procedure.** The supervisors of the checklist shall hear all applications for a correction of the checklist and the evidence submitted thereon and shall correct it according to their best knowledge so that it contains only the names of those persons qualified to vote at said election. The names of all persons not qualified to vote at the time of any session, but who shall clearly be qualified to vote on election day, may be added to the checklist at that session. No additions or corrections shall be made after 6:00 p.m. Saturday 10 days prior to election day, except as provided in RSA 659:12. The additions and corrections resulting from such sessions shall be made to the previously posted checklist on or before midnight on the succeeding Wednesday either by additions or corrections to said checklist or by posting a new corrected checklist. Notice of such additions or corrections to the checklist shall also be given to the town or city clerk.

#### **654:29 Certification of List.**

I. The supervisors shall subscribe and make oath to the following certificate on the back of the checklist, as corrected by them: We, the supervisors of the checklist of the town (or ward) of \_\_\_\_\_ do solemnly swear that, according to our best knowledge, the within list contains \_\_\_\_\_ (number) names of those persons only who are, by actual domicile, legal voters in said town (or ward).

II. They shall file a true copy of the corrected list, attested by them, with the town clerk. The checklists so corrected shall be used at the election. Any person who swears falsely in making such certificate shall be guilty of perjury.

**654:30 Correcting Data Files.** After each state election, the supervisors shall use the checklist from such election to correct the standard data files to conform to any changes which are evident from the checklist. The standard data file so maintained and corrected shall be a public record open to inspection at reasonable times and as otherwise required by law.

**654:31 Availability of Checklist.** The checklist as corrected by the supervisors shall be open for the examination of any person at all times before the opening of a meeting or election at which the list is to be used. After each state election, the supervisors shall furnish to any person requesting the same a copy of the checklist which was used in said election without the voting marks thereon and with or without party designations at the discretion of said supervisors. The supervisors may charge a reasonable fee for these copies for the use of the town or city.

### **Checklists: Additional Provisions for Primary Elections**

**654:32 Hearings on Alterations to Party Registration.** Before each state or presidential primary election, the supervisors of the checklist shall be in session for the change of party registration of legal voters. The sessions shall be on 2 days, at least, and at such other times as they deem necessary, and shall not be closer in time to the primary than the day immediately prior to the first day for the filing of a declaration of candidacy.

**654:33 Posting Copies; Notice of Sessions.** The supervisors shall post copies of the checklist, showing the persons in the town or ward entitled to vote, with their party registration, so far as such registration has been made, in 2 or more public places in such town or ward at least 10 days prior to such session; and notice of the date, hour and place of the sessions to revise such registration shall be given upon such checklists.

#### **654:34 Change of Registration.**

I. Change of registration of a voter whose party membership has been previously registered.

(a) Any legal voter whose party membership has been registered may change such registration by appearing in person before the supervisors of the checklist for his town or ward at any session provided for in RSA 654:32 and stating to them under oath or affirmation, that:

(1) He intends to affiliate with and generally supports the candidates of the party with which he offers to register, in which case he shall be registered as a member of such party; or

(2) He does not wish to be registered as a member of any party, in which case his party designation shall be removed from the checklist.

(b) He may also change such registration at any primary, upon making oath or affirmation to the same effect, but he shall not be permitted in such case to vote the ballot of any party at such primary.

II. Change of registration of a voter whose party membership has not been previously registered.

(a) Any legal voter who has not been registered as a member of any party may register as a member of the party of his choice by appearing before the supervisors of the checklist for his town or ward at any session provided for in RSA 654:27 and stating to them, under oath or affirmation, if required, that he intends to affiliate with and generally supports the candidates of the party with which he offers to register, in which case he shall be registered as a member of such party.

(b) He may also register as a member of a party at any primary by requesting and voting the ballot of the party of his choice and if challenged, he shall take an oath or affirmation to the effect that he intends to affiliate with and generally supports the candidates of that party.

III. Notwithstanding any provision of paragraphs I and II to the contrary, no person who has voted in a primary may thereafter on the day of said primary change his party registration or change his registration so that he is registered as a member of no party.

**654:35 Corrected List.** After a pre-primary session, the supervisors shall prepare a corrected checklist showing the registration of party members as corrected by them; and such checklist with the corrections that shall have been made in the sessions provided for in RSA 654:27 through 654:32 shall be used at the primary.

### **Periodic Maintenance and Verification of Checklists**

**654:36 Reports of Transfer.** If the supervisors of the checklist have received a notice of transfer from another board of supervisors of the checklist in the state of New Hampshire that a voter whose name is on the checklist has been added to the checklist of some other town or city, they shall strike that name from the checklist at the next session for the correction of the checklist. They shall retain the notice as proof of their reasoning in striking the name from the checklist.

**654:37 Reports of Death.** Whenever there is filed in his office notice of the death of any person or persons of the age of 18 years or over, town or city clerk shall notify the supervisors of the checklist of said town or city of the death of such person or persons. Upon receipt of such notice, the supervisors shall examine the checklist to determine if the name of said deceased person appears thereon, it shall be removed to the next election. Any supervisor who shall neglect or refuse to remove the name of such deceased voter from the checklist after receiving notice from the town or city clerk shall be guilty of a violation.

EXHIBIT

654:34 E

PENGAO 800-631-6898



U.S. Department of Justice

Civil Rights Division

EXHIBIT

654:39 F

JDR:RPL:SMC:jdh  
DJ 166-012-3  
2004-2563  
2004-2581  
2004-2582

Voting Section - NWB  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530

June 22, 2004

Orville B. Fitch II, Esq.  
Assistant Attorney General  
Civil Bureau  
Department of Justice  
33 Capitol Street  
Concord, New Hampshire 03301-6397

Dear Mr. Fitch:

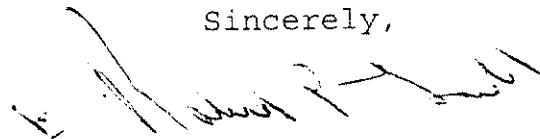
This refers to Session Law Chapter 436 (HB 575) (1979), which recodifies the election laws of the State of New Hampshire; Session Law Chapter 266 (HB 577) (2003), which implements the Help America Vote Act of 2002 (HAVA), 42 U.S.C. 15301-15545; and the adoption of formal administrative procedures for the resolution of election law complaints, including complaints filed under Title III of HAVA, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submissions on June 7, 2004.

The Attorney General does not interpose any objection to the specified changes. Regarding Session Law Chapter 266, we note that the act specifically amends the following provisions of the State's election laws: RSA 655:19, II (Chapter 387 (1991)) (to provide for the deposit of certain candidate filing fees collected by the secretary of state into the election fund); RSA 655:19-c (Chapter 387 (1991)) (to provide for the deposit of any administrative assessments paid to the secretary of state into the election fund); RSA 664:3, I (Chapter 351 (1997)) (to provide for the deposit of political committee registration fees paid to the secretary of state into the election fund); RSA 664:21, II (Chapter 351 (1997)) (to provide for the deposit of any administrative fines for violations of the State's campaign finance laws into the election fund); and RSA 665:7 (Chapter 436 (1979)) (to authorize the Ballot Law Commission to hear and resolve complaints alleging violations of Title III of HAVA, as specified).

We note also that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. See Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41 and 51.43).

Session Law Chapter 266 includes provisions that are enabling in nature. Therefore, the State is not relieved of its responsibility to seek Section 5 preclearance of any changes affecting voting proposed to be implemented pursuant to this legislation (e.g., creation of a centralized statewide voter registration database by the secretary of state and guidelines issued by the secretary of state implementing the database). See 28 C.F.R. 51.15.

Sincerely,

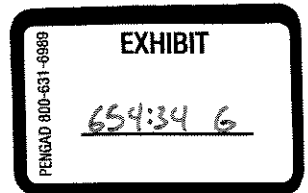
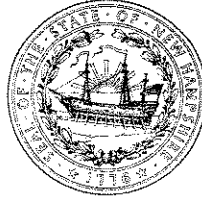
A handwritten signature in black ink, appearing to read "Joseph D. Rich", is written over a horizontal line.

Joseph D. Rich  
Chief, Voting Section

**ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET  
CONCORD, NEW HAMPSHIRE 03301-6397

KELLY A. AYOTTE  
ATTORNEY GENERAL



MICHAEL A. DELANEY  
DEPUTY ATTORNEY GENERAL

News Release

RELEASED BY: Attorney General Kelly A. Ayotte

SUBJECT: Voting Rights Act – Submission of a request for preclearance of changes to New Hampshire Voting laws and procedures

DATE: June 10, 2005

RELEASE TIME: Immediate

Attorney General Kelly A. Ayotte announces the submission of requests for preclearance of changes made to the election laws in New Hampshire to the Federal Department of Justice. Preclearance submissions will address changes made to New Hampshire's election laws since jurisdictions in the State became subject to preclearance.

Ten New Hampshire towns are subject to section 5 of the federal Voting Rights Act. Changes to New Hampshire election laws that affect any of these ten towns must be submitted for review by either the Federal Department of Justice or the Federal District Court for Washington D.C. The federal Department of Justice will review the changes to New Hampshire's election laws to ensure that the changes do not have the effect of denying or abridging the right to vote on account of race or color, or membership in a language minority group. Changes to New Hampshire redistricting statutes have been submitted to, and approved by, the U.S. Justice Department since the 1980 census. Federal regulations require that the public be notified that the State has filed a request for preclearance and that the submission be available for public inspection.

Copies of each submission by the Attorney General for the State of New Hampshire are available at the office of the Attorney General at 33 Capitol Street, Concord New Hampshire, 03301. Each document will also be made available at the Attorney General's Office web site at:

<http://www.doj.nh.gov/elections/>

Attorney General Ayotte and the federal Department of Justice invite persons interested in this submission to submit comments and information, in writing or by telephone, to the Voting Section of the Federal Department of Justice, Civil Rights Division, at the earliest possible date to ensure that they may be considered during the preclearance review time period. Telephone 1-800-253-3931 or (202) 307-2385 or write Chief, Voting Section, Civil Rights Division, Room 7354 – NWB, Department of Justice, 950 Pennsylvania Ave., NW, Washington, DC 20530. The envelope and first page should be marked "Comment under section 5." Additional information on the Voting Rights Act and the preclearance process can be obtained at the web site of the Federal Department of Justice at:

<http://www.usdoj.gov/crt/voting/index.htm>

The New Hampshire Attorney General's Office Voting section can be contacted at:

<http://www.doj.nh.gov/elections/>  
New Hampshire Toll Free 1-866-8868-3703  
or 1-866-VOTER03  
[electionlaw@doj.nh.gov](mailto:electionlaw@doj.nh.gov)